
CONTRACT DELEGATION AUDIT
CALIFORNIA DEPARTMENT OF CORRECTIONS AND
REHABILITATION



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Office of Audits and Compliance
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SUMMARY OF FINDINGS

Office of Business Services

OAC completed a review and evaluation of OBS' internal controls over contracting procedures and compliance with contracting requirements for the period of September 1, 2006 through April 30, 2008. OAC reviewed a sample of 84 contracts, 21 S&Es, 21 DPs, and 19 CAL-Card Statements of Account (SOA) that were processed by the OBS. OAC identified 6 findings which are summarized below.

FINDING 1: DGS or Attorney General Approval not Obtained

OAC identified eight contracts that were inappropriately approved by the OBS under the authority of DGS Exemption Letter CDCR1 or the Penal Code (PC), Section 7000. The eight contracts should have been submitted to the DGS or to the Attorney General for review and approval.

FINDING 2: Insurance Approved by DGS/Office of Risk and Insurance Management (ORIM) not Obtained

OAC found 17 contracts involving hazardous activities that did not have insurance documents approved by the DGS/ORIM.

FINDING 3: CAL-Card Guidelines were not Followed

OAC's review of the 19 SOA identified the following findings:

- 1) One SOA showed purchases that were **not** for the daily operation of Departmental business, but were to benefit the parolees.
- 2) Seven SOAs showed purchases that were prohibited.
- 3) Five SOAs showed restricted purchases, such as wrist rests, computer software, and batteries.
- 4) Two SOAs showed the total purchase exceeding the \$5,000 CAL-Card purchase daily limit.
- 5) Two SOAs did not have the vendor's invoices/receipts attached to the CAL-Card Purchase Log Sheets (Log Sheet).
- 6) The Log Sheet for six SOAs did not individually list the items purchased.

FINDING 4: Incorrectly Processed, Late, Inaccurate, and Incomplete Contracts

OAC determined that 46 contracts were processed incorrectly, 17 contracts were approved late, 27 contracts had inaccurate information, and 40 contracts had missing documentation or information.

FINDING 5: Internal Control Weakness

OAC identified the following internal control weaknesses:

1. Three contracts and five S&Es were missing from the OBS' contract files.
2. The Approver pre-signed and pre-dated the CAL-Card Purchase Log Sheets.
3. The CAL-Card Purchase Log Sheets did not have a space for the Approver's date; therefore, if the Approver failed to put a date after signing, it is impossible to determine whether the pre-approval requirement on purchases over \$100 was followed. Purchases over \$100 have to be pre-approved before making the purchase. Additionally, some Log Sheets were not recording the completion dates and shipment receipt dates, and one Log Sheet had a computation error in tallying the purchases.
4. One CAL-Card purchase did not have any documentation to support a double-payment claim.
5. The CAL-Card approver or cardholder's name did not match when the SOA, CAL-Card Log Sheets, and the OBS' List of Approvers and Cardholders Names were compared. In addition, a cardholder's name appeared in the SOA and in the Log Sheet but the same cardholder was not listed in the OBS' List of Approvers and Cardholders.

FINDING 6: LO-33 Signature Card File not Updated

The LO-33 signature card file was not current; three contract managers who had left OBS still have their LO-33s in the file.

California Rehabilitation Center-Norco

FINDING 1: Small Dollar Value Contracts

OAC reviewed 4 DPs and 11 S&Es, and identified the following findings:

1. Two S&E contracts with amounts less than \$1,000 were processed as S&Es instead of processing them as DPs.
2. Nine S&Es were approved late.
3. Some S&Es were missing the required forms, incomplete, or completed with incorrect information.
4. The log for DPs and S&Es was not properly maintained.

FINDING 2: Contract Payments

Nineteen invoices were reviewed. The review identified the following findings:

1. Of the nine S&Es that were approved late (see Finding 1, number 2), two invoices showed that the work started before the S&Es were formally approved.

2. One invoice showed that the contractor was paid for a service that was performed after the contract had expired.
3. Two invoices showed services that did not agree with the contracted services.
4. CRC approved two invoices with errors or inadequate documentation.

California State Prison-Los Angeles County

FINDING 1: Splitting of S&Es

LAC improperly used (a) S&Es instead of the standard contract process, and (b) 2 DPs instead of 1 S&E. The S&Es and DPs were for similar services provided by the same vendors within a 12-month period, and the combined cost of the services exceeded the maximum dollar amount limits for using S&Es and DPs.

FINDING 2: Insurance Requirement not Followed for Hazardous Services

Of the 16 S&Es reviewed by OAC, 3 were for hazardous services, which did not have on file insurance certificates approved by the DGS' Office of Risk and Insurance Management (ORIM). In addition, LAC should not have used S&Es for hazardous services because these services have to be approved by DGS.

FINDING 3: Incomplete or Inaccurate Documents

S&Es and DPs reviewed by OAC either contained inaccurate information or were missing the required contract language and information.

FINDING 4: S&E and DP Log not Accurate

The Log contained inaccurate information for five S&Es and one DP.

FINDING 5: Incorrect Processing of S&Es and DPs

LAC used an S&E when a DP would have been more appropriate, and vice-versa. LAC also used S&Es for services that should have been processed using the Statewide Master Agreements.

FINDING 6: Contracts not Properly Monitored

LAC allowed vendors to use rates and provide services not in compliance with the contracts.

FINDING 7: Approvals and Payments were Late

LAC did not process contracts and payments in a timely manner.

Southern Youth Correctional Reception Center and Clinic

FINDING 1: Contracts Requiring DGS Approval

Of the three contracts reviewed, (1) three contracts were not entered into the State Contract and Procurement Registration System (SCPRS), (2) one contract was approved late, and (3) one contract was missing the required exemption stamp.

FINDING 2: Delegated Contracts

OAC reviewed five contracts and found that (1) a hazardous contract was not submitted to DGS for approval, (2) contract files had incorrect and/or incomplete information, (3) there were no written justifications for late contracts, and (4) a contract was not advertised in the California State Contracts Register (CSCR).

FINDING 3: Contracts Subject to Master Agreements

OAC reviewed four contracts that were subject to Master Agreements. One contract had a term of July 1, 2008 through June 30, 2010, which exceeded the Master Agreement's term of July 1, 2006 through September 30, 2008.

FINDING 4: Small Dollar Value Contracts

OAC reviewed 4 DPs and 11 S&Es. The following findings were identified: (1) Seven S&Es for medical services were erroneously exempted from the competitive bidding process, (2) seven S&Es for medical services should have been processed as standard contracts because they require insurance approved by the DGS' ORIM, and (3) DP and S&E files were missing or had incomplete information.

FINDING 5: Commencement of Services

Of the 19 invoices reviewed, 5 indicate that services were provided before the contracts were officially approved.

Ventura Youth Correctional Facility

FINDING 1: Contracts Requiring DGS Approval

OAC reviewed a sample of five contracts and identified the following findings:

1. VYCF approved an amendment that should have been approved by DGS.
2. Three contracts were approved late.
3. One contract over \$5,000 was not entered into the SCPRS.
4. Two contracts used the wrong version of the General Terms and Conditions (GTC).
5. One contract was amended; however, no explanation was provided for the amendment.
6. One contract had missing, incomplete, and erroneous information.

FINDING 2: Delegated Contracts

OAC reviewed a sample of five contracts in the test for Delegated Contracts and identified the following findings:

1. Two contracts were misclassified.
2. Four contracts were approved late.
3. Three contracts for hazardous activities did not have insurance approved by the DGS' ORIM.
4. Two contracts processed as emergency contracts did not have the emergency justification.
5. One contract's term was amended, but no explanation was provided.
6. The files for four contracts did not have evidence that the contracts were entered into the SCPRS.
7. Three contracts were missing the contract manager's signature and stamp of approval.
8. The files for four contracts did not have documents showing that the contractors were qualified to conduct business in California.
9. One contract used the maximum delegated amount rather than the bid amount.
10. Four contracts were missing rate sheets, and one of the four contracts was missing the Agreement Summary form (STD 215).
11. The bids for one contract were not documented.
12. Three amended contracts were processed incorrectly.
13. Two contracts used the wrong version of the GTC.

FINDING 3: Contracts Subject to Master Agreements

A sample of two contracts was selected for review. One contract was missing a rate sheet and another contract was given the same agreement number as the DGS Master Agreement, rather than a unique CDCR contract number.

FINDING 4: Small Dollar Value Contracts

The review of a sample of 5 Direct DPs and 14 S&Es resulted in the following findings:

1. Five S&Es were split to avoid going over the delegated amount of \$4,999.99.
2. VYCF obtained only two bids for three of the S&Es.
3. One DP exceeded the delegated amount of \$999.99.
4. Four S&Es had incomplete information and one S&E file could not be located.

FINDING 5: Services Rendered Before Contract Approval

The review of a sample of 27 invoices resulted in the following two findings:

1. Eight invoices showed that the work started before the contracts were formally approved.
2. One contract did not indicate the contract's term.

Auditees' Responses

The OBS partially agreed with Finding 4, and concurred with all other findings. OBS stated that they are occasionally placed in a position to process late contracts for a variety of reasons (bid protest, late request from program, re-bids, etc.,) to avoid disruptions in the contracted services. However, since 2008, the OBS has made efforts to improve their contracting process by making organizational changes, requiring staff to attend DGS training, providing internal training, and are revising essential resource tools to enable staff to effectively perform their jobs. See attachment for OBS' full response.

CRC, LAC, SYCRCC, and VYCF concurred with all the findings. See attachment for the responses from CRC, SYCRCC, and VYCF. LAC's response was an informal e-mail message, and was not included in this audit report.

Auditor's Comments

The responses from OBS, CRC-Norco, LAC, SYCRCC, and VYCF are satisfactory.

BACKGROUND

Contracts awarded by State agencies are generally required to be submitted to the DGS for review and approval. However, according to the DGS Exemption Letter Number CDCR1, the DGS granted the CDCR the authority to approve the following:

1. Contracts under \$75,000 awarded by the CDCR normally subject to approval by the DGS per Public Contract Code (PCC), Section 10335.
2. Interagency Agreements under \$75,000.

An exemption is granted for a specific period of time and is subject to periodic renewal. OAC conducts the audit biennially, using the DGS audit guide and internal control survey. Once the audit is completed, the DGS conducts a quality control review to determine whether OAC followed the DGS' audit guide.

OFFICE OF BUSINESS SERVICES

FINDINGS AND RECOMMENDATIONS

OFFICE OF BUSINESS SERVICES

OAC reviewed a sample of 84 contracts, 21 S&Es, and 21 DPs processed by OBS from September 1, 2006 through April 30, 2008. OAC also reviewed 19 CAL-Card SOA of various CDCR CAL-Card holders for the same time period to determine compliance with the CAL-Card usage rules. The reviews identified the following findings:

FINDING 1: DGS or Attorney General Approval not Obtained

OAC identified eight contracts that were inappropriately approved by the OBS under the authority of the DGS Exemption Letter CDCR1 or Penal Code (PC) 7000. The following eight contracts should have been submitted to the DGS or to the Attorney General for review and approval.

Contract	Approval Authority Used by OBS	Correct Approval Authority	Contract Amount
1	CDCR1	DGS	\$132,129
2	CDCR1	DGS	\$78,258 (with amendment)
3	CDCR1	DGS	\$229,130
4	CDCR1	Attorney General	\$615,344
5	Orig. contract – CDCR1 Amendment 1 – CDCR1 Amendment 2 – PC 7000	Attorney General	\$730,000
6	Orig. contract - DGS Amendments – CDCR1	Attorney General	\$665,000
7	CDCR1	DGS	\$75,000
8	CDCR1	DGS	\$89,100

Contract 1

Contract 1 is a public works contract for over \$50,000, and it is not part of the CDCR's Master Plan. Therefore, it requires the DGS' approval. The OBS used the authority of Exemption Letter CDCR1 to approve the contract.

Contract 2

The original contract was for \$73,514 for the term of July 1, 2006 through June 30, 2007. OBS approved the contract under the authority of Exemption Letter CDCR1. Amendment 1 added five months to the term and \$4,744 to the amount. With the amendment, the contract's new term was July 1, 2006 through November 30, 2007 for \$78,258. Amendment 1 was also approved by OBS under the authority of Exemption Letter CDCR1. The original and amended contracts were inappropriately approved. They should have been approved by DGS because they were public works contracts with a value over \$50,000, and the contract was not part of the CDCR's Master Plan.

Contract 3

The original was a public works contract for \$229,300 with the term of “upon approval through July 30, 2007,” and was approved by OBS with the authority of Exemption Letter CDCR1. Amendment 1 extended the contract to three months with no change in cost. With the amendment, the contract’s term is May 24, 2007 through September 30, 2007 for \$229,300; the amendment was also approved by OBS with the authority of Exemption Letter CDCR1. Both approvals were inappropriate. The contract should have been approved by DGS because the contract amount was over \$50,000, and the contract was not part of the Master Plan.

Contract 4

Contract 4 is a public works contract over \$500,000, and it is not part of the Master Plan; therefore, the contract required the Attorney General’s approval. The OBS approved the contract based on the authority of Exemption Letter CDCR1.

Contract 5

The original contract was a public works contract for \$730,000 with the term of “upon approval through June 30, 2007,” and the contract was approved using the authority of Exemption Letter CDCR1. Amendment 1 extended the term to March 12, 2007 through October 31, 2007 (four months were added with no change in cost). Amendment 1 was also approved using the authority of Exemption Letter CDCR1. Amendment 2 further extended the term to March 12, 2007 through March 5, 2008 (five months and four days were added with no change in cost), and deleted Item A of Exhibit B-2, which was the Inspection and Testing of Fire Sprinklers and Standpipes to Pass 5-year Inspection. Amendment 2 was approved with the PC, Section 7000 exemption. All three approvals were inappropriate; all three should have been submitted to the Attorney General for approval because of the amount of the contract and the services were not part of the CDCR’s Master Plan.

Contract 6

The original contract, which was a public works contract for \$150,000 with the term of November 1, 2005 through June 30, 2008, was appropriately approved by DGS. Amendment 1 added \$365,000 to the original amount of \$150,000, which changed the contract amount to \$515,000 ($150,000 + 365,000$). The amendment was approved by OBS under the authority of Exemption Letter CDCR1. Amendment 2 added another \$150,000 to \$515,000, which again changed the amount to \$665,000 ($515,000 + 150,000$). Amendment 2 was also approved by OBS using the authority of Exemption Letter CDCR1. Amendments 1 and 2 were inappropriately approved. They should have been approved by the Attorney General because the contract amount was over \$500,000, and the contract was not part of the CDCR’s Master Plan.

Contract 7

The contract involved testing the air for asbestos, mold, and lead paint, which are considered hazardous activities. In addition, the contract exceeded the delegation limit of \$74,999. Therefore, the contract required the DGS’ approval. However, the OBS inappropriately approved the contract using the authority of Exemption Letter CDCR1.

Contract 8

The contract was for grounds maintenance and debris removal for \$89,100, with a term of July 1, 2006 through June 30, 2007. The OBS approved the contract under the authority of Exemption Letter CDCR1. Amendment 1 changed the term to July 1, 2006 through June 30, 2008; there was no change in amount. The OBS approved Amendment 1 under the authority of Exemption Letter CDCR1. The original and Amendment 1 were inappropriately approved. The OBS should have obtained the DGS' approval because the amount was over the delegated amount of \$74,999.

Criteria:

DGS Exemption Letter CDCR1, Scope of Exemption, partly states: "Contracts under \$75,000 awarded by the CDCR subject to approval by the DGS per Public Contract Code (PCC) Section 10335 are hereby exempted from such approval pursuant to PCC Section 10351...[The exemption] Does not apply to contracts subject to DGS' approval per PCC Section 10295. This includes revenue contracts and contracts for the construction, alteration, improvement, repair, or maintenance of real or personal property...."

OBS Contracting Guidelines, Section 5.03, states: "Sections 7000-7016 of the California Penal Code (CPC) provide that agreements relating to CDCR's Master Plan projects (primarily those for the new prison design and construction) are exempt from DGS approval. The construction (public works) agreements are approved by the Office of the Attorney General while the supporting agreements (such as design, construction testing and surveying, etc.) are approved by the CDCR under the exemption."

Recommendation:

Ensure that the Department's approval process is consistent with the State's contracting policies and procedures.

FINDING 2: Insurance Approved by DGS/ORIM not Obtained

Contracts involving hazardous activities require insurance approved by the DGS, ORIM.

OAC found 17 contracts involving hazardous activities that did not have insurance documents approved by the DGS/ORIM. For example, one contract for \$39,945 involved fuel tank lead cleaning, monitoring, and analysis. Lead poisoning is capable of causing irreversible neurological damage in addition to its propensity for causing renal disease, cardiovascular issues, and reproductive toxicity. Lead health effects are caused from inhalation, ingestion, and skin contact. Another contract for \$33,400 involved the removal of lead and asbestos containing materials in one of the Division of Juvenile Justice's (DJJ) facilities. The danger of the services is similar to the first example with the addition of one more toxic element, asbestos. Exposure to asbestos poses a risk of developing asbestosis, mesothelioma, and lung cancer.

The other contracts identified in this finding were for transportation of people, fuel analysis, medical detoxification, and public works contracts in excess of \$50,000. All of these contracts require insurance approved by DGS/ORIM.

Criteria:

SCM, Section 3.12, Activities Contracts, states in part:

“These contracts require review by DGS/OLS and ORIM.

- A. Hazardous activities are activities performed by the contractor that may result in substantial risk of serious injury to persons or damage to property; such activities include but are not limited to the following types of work or service:
 - 1. Major repairs or alterations, or new construction of buildings. Contracts in excess of \$50,000 are defined as major. Contracts for lesser amounts may be determined to be hazardous depending on the risk of damage or injury.
 - 2. Excavation, drilling, or demolition.
 - 3. Pest control, fumigation, crop or agricultural spraying, or application of chemicals of any type....
 - 4. Treatment, removal, storage, or any other handling of hazardous substances including but not limited to toxic waste, petroleum waste, asbestos, and like substances.
- B. Regardless of the contract amount, insurance is required if hazardous activities are included in the performance of a contract. The DGS/ORIM is available to provide additional consultation on all insurance and liability matters.
 - 1. Contracts for hazardous activities must be submitted to DGS/ORIM for review to ensure that the contract and the certificate of insurance comply with the provisions of SCM Section 7.40, and the insurance coverage meets applicable standards.”

SCM, Glossary of Terms, Hazardous Activities, states in part: “Contracts for hazardous activities must be accompanied by a certificate of insurance that name the state as an additional insured and financially protects the state in the event of a legal action arising out of performance of services under the contract.”

Recommendation:

Ensure that contracts for hazardous activities have insurance approved by the DGS/ORIM.

FINDING 3: CAL-Card Guidelines were not Followed

OAC reviewed 19 CAL-Card statements and found the following:

1. One statement showed purchases that were **not** for the daily operation of Departmental business, but were to benefit the parolees. For example, all eight purchases made by one cardholder were clothing and toiletries for the parolees.
2. Seven statements showed purchases that were prohibited. Facsimile machines and cassette transcribers are on the CDCR's list of prohibited CAL-Card purchases. OAC found that two of the five transactions tested for one cardholder included the purchase of two facsimile machines and a cassette recorder transcriber.
3. Five statements showed restricted purchases, such as wrist rests, computer software, and batteries.
4. Two statements showed the total purchase exceeding the \$5,000 CAL-Card purchase daily limit.
5. Two statements did not have the vendor's invoices/receipts attached to the CAL-Card Purchase Log Sheets.
6. The CAL-Card Purchase Log Sheet for six statements did not list the individual items purchased.

Criteria:

CDCR, CAL-Card Handbook, Chapter 5, page 12, General Responsibilities, states: "The CAL-Card is for "Official Use Only" and the Cardholder must be a full time CDCR employee. Controls have been developed for the CAL-Card to ensure that it can only be used for specific purposes and within specific dollar amount."

CDCR, CAL-Card Handbook, Chapter 2, pages 7-8, provide the definitions of the following:

- "For Official Use Only" – items purchased by CAL-Card are those that are used in the daily operation of State Offices for State business only.
- Prohibited Purchase – is an item that cannot be purchased under any circumstances. Chapters 9 and 11 provide the list of these items.
- Restricted Purchase – is an item that can be purchased through a State contract, the Prison Industry Authority or the Department of General Service. Chapter 11 provides the list of these items.
- Single Purchase Limit – the purchase amount a Cardholder may make at one time. The department set a default for single purchase limit of \$1,000 and \$10,000 monthly limit. If the Approver would request for a higher limit, the

department could give a maximum of \$5,000 for a single purchase, and \$50,000 for a monthly limit (Chapter 6, Page 14, General Purchase Guidelines)."

CDCR, CAL- Card Handbook, Chapter 8, page 17, states in part:

- Statement of Accounts (SOA): "At the end of each month, the Cardholder receives a Statement of Account from the bank. This monthly statement lists each purchase and is used to reconcile receipts, credits, and disputes."
- Approver Review: "When the Approver has received the SOA and supporting documentation from the Cardholders, the following steps must be taken: Ensure that all receipts, credits, dispute forms (if any), and Purchase Log Sheets are attached to the statement in the order that the charges appear."

CDCR, CAL- Card Handbook, Chapter 8, page 17, Statement of Accounts-Incorrect Charges, states: "If an item is billed incorrectly, the Cardholder must provide a complete explanation on the SOA. In addition, a Cardholder Statement of Questioned Item (CSQI) form must be filled out immediately. Retain a copy of this form...."

CDCR, CAL- Card Handbook, Chapter 5, page 12, Cardholder Procedures-CAL-Card Purchase Log Sheet, states: "The CAL-Card Purchase Log Sheet is used to track all purchases and must be completed in its entirety.... The Log captures that best prices were obtained for each purchase and is presented to the Approver for final approval."

Recommendation:

Ensure that all CAL-Card purchases are in accordance with the State and departmental guidelines.

Improve oversight of the CAL-Card program. (Note: An audit of CDCR's CAL-Card Program is scheduled for early 2010)

FINDING 4: Incorrectly Processed, Late, Inaccurate, and Incomplete Contracts

Of the 126 agreements (84 Standard Agreements (Std. 213) contracts + 21 S&Es + 21 DPs) reviewed by OAC, 46 contracts were incorrectly processed, 17 were approved late, 27 had inaccurate information, and 40 had missing documentation and information. Below are summaries of the deficiencies.

1. Forty-six contracts were incorrectly processed

An example of incorrect processing is the use of multiple DPs and S&Es for similar services within a 12-month period instead of a single standard contract. Multiple DP or S&E transactions may be allowed for similar services that take place within a 12-month period if the combined dollar amount does not exceed \$999.99 for DPs and \$4,999.99 for S&Es. Below are examples of DPs and S&Es that did not comply with the aforementioned criteria.

Direct Pays:

1) Service: Kitchen Grease Trap Pumping

DP	Contract Amount	Service Date	No. of Days from Prior Service Date
1	\$ 999.99	5/01/07	
2	\$ 999.99	8/23/07	114
3	\$ 999.99	12/10/07	109
4	\$ 999.99	2/28/08	80
Total	\$3,999.96		303
Limit	(999.99)		
Excess	\$2,999.97		

The 4 DPs were with same contractor for the same type of service, and were conducted within a 12-month period. An S&E should have been used because the combined amount for the four DPs exceeded the limit for DPs by \$2,999.97.

S&E

2) Service: Psychiatric Evaluation

S&E	Contract Amount	Term End Date	New Start Date
1	\$4,449.99	03/19/08	
2	4,999.99		03/20/08
Total	\$9,449.98		
Limit	(4,999.99)		
Excess	\$4,449.99		

The two S&Es were with the same contractor for the same service within a 12-month period. A STD 213 should have been used because the combined amount for the S&Es exceeded the dollar limit for S&Es by \$4,449.99.

In addition to the inappropriate use of DPs and S&Es, OAC also found the following:

- Misclassified contracts. For example, one contract was misclassified and inappropriately processed as an emergency contract.
- The standard GTC was not mentioned in the contract's STD 213.
- No evidence that the Department of Fair Employment and Housing (DFEH) was notified about some contracts.
- No indication that the contractor's status as a corporation was verified with the Secretary of State.

2. Late Approvals

Seventeen contracts were approved late. For example, one contract was approved late because the former contract manager and the current contract analyst were not aware that Public Works contracts under \$50,000 could be approved by OBS. The contract was sent to DGS for approval; the DGS sent the contract back to OBS where it was properly approved. The time spent in sending the contract to DGS and the DGS sending the contract back to OBS caused the contract's late approval.

Another contract that was approved late was for elevator maintenance. The institution's elevator requires regular maintenance. Therefore, an approved maintenance contract should always be in place, eliminating the risk of having a late contract.

3. Inaccurate

Twenty-seven contracts had inaccurate information. For example, several contracts used the wrong version of the GTC. The GTC version used was GTC 306 when it should have been GTC 307 because it was the version that was in effect at the time of the contracts' approval.

Another example of inaccuracy was the different contract terms specified in various documents for one S&E. The Essential Services Certification (OBS 4001) and S&E Order Request (CDCR 1852) showed a term of April 14, 2008 – April 13, 2009 while the S&E Order (CDC 1063) showed a term of April 28, 2008-April 27, 2009.

4. Incomplete

Forty contracts had missing information and/or documents. For example, one Public Works contract was missing the required State Fire Marshall's approval, Statement of Non-discrimination Construction Contract Specifications, Performance Bond, and Rate Sheet. Another example was an emergency contract which did not have an emergency justification on file. A written justification is required to support the competitive bidding exemption for an emergency contract.

Additionally, OBS' standard invoicing language states that contractors will be reimbursed for actual costs incurred. This provision is used even in fixed rate contracts, which can result in confusion.

Other issues found by OAC include:

- Missing contract provisions required by the SCM;
- Missing consultant evaluations; and
- No Rate Sheets/Terms of Payment.

Criteria:

The SCM and OBS' Contracting Guidelines list all the requirements for contract processing, documentation, and language.

OAC provided the OBS with a detailed list of the deficiencies referenced in Finding 4, and the criteria applicable to each deficiency.

Recommendation:

Ensure that the SCM and CDCR contracting guidelines are followed.

FINDING 5: Internal Control Weakness

OAC identified the following internal control weaknesses:

1. Three contracts and five S&Es were missing from the OBS' contract files.
2. One approver pre-signed and pre-dated the CAL-Card Purchase Log Sheets.
3. All 19 CAL-Card Purchase Log Sheets reviewed did not have a space for the Approver's date; thereby, making it difficult to determine whether the pre-approval requirement on purchases over \$100 was followed. Purchases over \$100 have to be pre-approved before making the purchase. Additionally, some Log Sheets were not recording the completion dates and shipment receipt dates, and one Log Sheet had a computation error in tallying the purchases.
4. One CAL-Card purchase did not have any documentation to support a double-payment claim.
5. The CAL-Card approver or cardholder's name did not match when the Statement of Account, CAL-Card Log Sheets, and the OBS' List of Approvers and Cardholders Names were compared. In addition, a cardholder's name appeared in the SOA and in the Log Sheet, but the same cardholder was not listed in the OBS' List of Approvers and Cardholders.

Criteria:

State Administrative Manual (SAM), Section 20050, states: "Because governments are susceptible to fraud, waste, and abuse, increased attention has been directed toward strengthening internal control to help restore confidence in government and improve its operations. In particular, the Financial Integrity and State Manager's Accountability Act was enacted to inhibit waste of resources and create savings. GC [Government Code] 13400 through 13407 describes the Legislative findings, entity responsibilities, and entity reports on the adequacy of internal control."

GC 13403 defines internal accounting and administrative controls and sets forth the elements of a satisfactory system of internal control. As stated in GC 13403, internal accounting and administrative controls are the methods through which state entity heads can give reasonable assurance that measures to safeguard assets, check the accuracy and reliability of accounting data, promote operational efficiency, and encourage adherence to prescribe managerial policies are being followed.

Internal accounting controls comprise the methods and procedures directly associated with safeguarding assets and assuring the reliability of accounting data. Internal administrative controls comprise the methods and procedures that address operational efficiency and adherence to management policies.

Furthermore, GC 13403 states that the elements of a satisfactory system of internal accounting and administrative controls, shall include, but are not limited to:

1. A plan of organization that provides segregation of duties appropriate for proper safeguarding of state assets.
2. A plan that limits access to state assets to authorized personnel who require these assets in the performance of their assigned duties.
3. A system of authorization and record keeping procedures adequate to provide effective accounting control over assets, liabilities, revenues and expenditures.
4. An established system of practices to be followed in performance of duties and functions in each of the state agencies.
5. Personnel of a quality commensurate with their responsibilities.
6. An effective system of internal review.

These elements, as important as each is in its own right, are expected to be mutually reinforcing and, thus, to provide the system with "internal checks and balances." All the elements are so basic to adequate internal control, that serious deficiencies in any one could preclude effective operation of the system and should trigger a sign of a problem."

CDCR, CAL-Card Handbook, Chapter 1, Page 5, Introduction-Procurement Standards, states in part: "The following standards are based on the guidelines set forth by the DGS: All purchases totaling over \$100 must have prior approval by a manager or supervisor before using the CAL-Card as a payment method."

Recommendations:

Develop policies and procedures to improve maintenance of the contract files. Access to files should be limited, monitored, and documented.

Improve oversight of the CAL-Card program.

Update the CAL-Card Log Sheet to include the Approver and the Cardholder's date and printed names.

Ensure that claims/disputes are documented and maintained.

Ensure that the CAL-Card Approvers and Cardholders' List is kept current.

FINDING 6: LO-33 Signature Card File not Updated

OAC determined that the LO-33 Signature Card File is not current; the signature cards of three Staff Services Managers I who have left OBS, were still on file.

Criteria:

OBS, Section 5.02, Signature Cards, states: "The LO-33 signature cards designate personnel authorized to sign contractual documents for CDCR. OBS authorized personnel include Staff Services Manager I or above who meet the criteria in the State Contracting Manual, Section 2.06.

One signature card, per authorized individual, must be submitted to OBS for approval. Following approval, copies of the LO-33 signature card will be distributed as appropriate.

Updating LO-33 Signature Card

Any change in classification, relocation, or name, requires a new LO-33 signature card to be submitted to OBS."

Recommendations:

Establish controls to ensure that the LO-33s are kept current.

CALIFORNIA REHABILITATION CENTER-NORCO

FINDINGS AND RECOMMENDATIONS

CALIFORNIA REHABILITATION CENTER - NORCO

OAC identified the following findings during the review of contracts processed by CRC - Norco.

FINDING 1: Small Dollar Value Contracts (DP and S&E)

The review of 4 DPs and 11 S&Es identified the following findings:

1. Two S&E contracts with amounts less than \$1,000 were processed as S&Es instead of processing them as DPs. The OBS established rules to use the DP process for one time only service costing \$999.99, and to use the S&E process for services that exceed \$999.99 up to \$4,999.99. The costs of the services that were processed as S&Es were \$95 and \$420.
2. Nine S&Es were approved late. As an example, 1 S&E showed a start term date of July 1, 2006, but the contract was not approved until August 31, 2006, which is 61 days after the start date.
3. Some S&Es had incomplete and/or incorrect information. As examples, one S&E was missing the Service and Expense Order Request (CDC 1852); two S&Es were missing the Drug-Free Certification form, five S&Es were missing the Accounting Officer's signature, and one S&E showed amounts written in words and numeric that did not match. The amount was written for "three dollars and fifty cents" while the numeric amount was written for \$77.18. The actual contract amount for this S&E was \$999 and the invoice was for \$77.18.
4. The log for DPs and S&Es was not properly maintained. Eleven S&Es were logged in inaccurately. For example, one S&E showed an approval date of August 31, 2006, but the approval date logged in was September 12, 2006. Additionally, the approval date of the five S&Es and three DPs were not logged in.

Criteria:

1. CDCR, OBS' Contracting Guidelines, Section 14.26, states: "The Service and Expense Order (S&E) (CDCR 1063) is a simplified form and process used to obtain services/rentals in a more expeditious manner rather than the normal contract process. The S&E process also includes Direct Pay (DP) paperless process for one-time only services less than \$1,000. CDCR has delegated authority to solicit informal bids up to \$4,999 (excluding tax) for a twelve (12) month period."
2. SCM, Section 2.03.A, Preliminary Considerations, states in part: "When the services are needed is a critical factor. Sufficient time must be allowed for internal agency process as well as required external review(s)...."

SCM, Section 4.09.B, Necessity of Time Management, states: “Contracting staff are generally aware of the necessity for timely action and effective management of time during the contracting process.”

CDCR, OBS’ Contracting Guidelines, Section 6.01, Introduction to Agreement Processing Timeframes, states: “The contracting timeframe involved for the Office of Business Services (OBS) contract analyst to develop and process a competitively bid agreement, non-competitively bid (NCB) agreement, or an amendment will vary depending on the types of goods and services requested, any special requirements, and the time of year due to work flow fluctuations. Any request not submitted within the established time frames will require a Late Justification Request (CDCR 3009) signed by either the Deputy Director/Associate Deputy Director of the requesting program or the Warden/Health Care Manager/Chief Medical Officer of the requesting institution.”

- 3-4. SCM, Section 9.09.A, Record Keeping, states: “Each agency is responsible for maintaining all invoices, records, and relevant documentation for three years after the final payment under the contract.”

Good internal controls require that records contain all relevant content and contextual information to ensure all transactions have been fully and appropriately documented, and that the record has value as a source of information to others. Additionally, information is sometimes used as the basis for making a decision; therefore, it is essential to maintain reliable, complete, and accurate records.

Recommendations:

1. Ensure that all small dollar value contracts are processed according to the OBS’ S&E Training Module.
 2. Follow the OBS’ recommended timeframe. If unable to comply with the recommended timeframe, submit a fully executed late justification and retain it in the file.
- 3-4. Review contracts for completeness and accuracy, including the DP and S&E Log.

FINDING 2: Contract Payments

The review of 19 invoices identified the following findings:

1. Two invoices showed that the work started before the S&Es were formally approved. The number of days worked before approval for each S&E is illustrated in the following table.

Sample No.	Term	Approval Date	# of Days Late	Work Start Date	# of Days Work Started Before Approval
1	07/01/06-06/30/07	08/31/06	61	07/18/06	44
11	07/01/07-06/30/08	12/07/07	159	07/27/07	133

2. One invoice showed that the contractor was paid for a service that was performed after the contract had expired. The term for this S&E ended on November 30, 2006, the service was performed and invoiced on December 15, 2006. The payment was posted in the Accounting records on April 3, 2007.
3. Two invoices described services that did not match with the contracted services. As an example, a contractor agreed to provide rentals of respiratory machines to CRC; however, the billing was for a canister for suction pump and oxygen content refill. The bill was subsequently paid, and was posted in the Accounting records on May 31, 2007.
3. CRC approved two invoices with errors or inadequate documentation.

CRC was billed for \$1,127.90 (1,118 + 9.20 taxes). The invoice was for 8 Proma Chairs at \$125 each. The total purchase should have been \$1,009.20 (8 x 125 = 1000 + 9.20). The calculations differed by \$118.70 (1127.90 – 1009.20).

Regarding the second invoice, the scope of work as described in the S&E, CDC 1063, indicated that the contractor agreed to provide whole body film badge dosimetry services at \$3.99 per badge. The invoice listed 20 names for a total billing of \$2,112. Final amount billed and paid was \$319.20. No other documentation was presented showing how they came up with \$319.20.

Criteria:

1. SCM, Section 4.09.A, Basic Policy, states: “The basic state policy is that no contractor should start work until receiving a copy of the formally approved contract. The approval by DGS/Office of Legal Services (OLS) is the final, formal approval of the contract. The law provides that when DGS/OLS approval is required, contracts for services should not begin before receipt of approval; payment for services may not be made until the contract is approved by the DGS/OLS or, in the case of an exempt contract, until it is formally approved by the agency.”

CDCR, OBS’ Contracting Guidelines, Section 6.07.04, Emergency Agreements, states: “A Late Justification Request is not required for emergency agreements. However, a “Declaration of Emergency” memorandum approved by the Warden for institution non-medical services or Chief Medical Officer/Health Care Manager (HCM/CMO) for institution medical service must be provided and the memorandum must be signed by the Deputy Director over the respective Headquarters division. An emergency is defined as “a sudden, unexpected occurrence that poses a clear and imminent danger, which requires immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.”

2-4. SCM, Section 9.05, listed the following contract manager's "Don'ts":

- A. The contract manager is not authorized to take the following actions:
 - 1. Instruct the contractor to start work before the contract is executed and approved.
 - 2. Change the description or scope of work of the contract.
 - 3. Direct the contractor to do work that is not specifically described in the contract.
 - 4. Sign the contract as the agency's authorized signator unless authorized in writing.
 - 5. Sign any contractor's contract form.
- B. The contract manager must not authorize payment to the contractor for any work not performed satisfactorily.
- C. In addition, the contract manager is not authorized to do the following without an executed and approved contract amendment in place:
 - 1. Extend the time period of the contract.
 - 2. Allow the contractor to incur costs over the original limit set in the contract.

Recommendation:

Ensure that contracts are approved before the contractor begins providing services, and the services being paid are in accordance with the agreements.

CALIFORNIA STATE PRISON-LOS ANGELES COUNTY

FINDINGS AND RECOMMENDATIONS

CALIFORNIA STATE PRISON-LOS ANGELES COUNTY

OAC identified the following findings during the review of contracts processed by LAC.

FINDING 1: Splitting of S&Es

LAC improperly used (a) multiple S&Es instead of the standard contracting process, and (b) two DPs instead of one S&E. The S&Es and DPs were for similar services provided by the same vendors within a 12-month period, and the combined cost of the services exceeded the dollar limits established for using S&Es and DPs.

Using multiple S&Es/DPs instead of one S&E/DP is often referred to as “splitting.” This practice artificially reduces the cost of each agreement because the total cost of one big contract is spread out over numerous smaller agreements, thereby changing the competitive bidding and contract processing requirements.

S&Es

Of the 16 S&Es reviewed by OAC, 4 were inappropriately split to circumvent the contracting process.

1. Two S&Es were for x-ray equipment rental from the same vendor within a 12-month period. Each S&E was for \$4,999.99, for a combined total of \$9,999.98.
2. Two more S&Es were for phlebotomy services from the same hospital for the exact same contract period. Each S&E was for \$4,999.99, for a combined total of \$9,999.98.

S&Es are intended for services costing less than \$5,000 within a 12-month period. LAC should have used the regular contracting process for x-ray equipment rental and phlebotomy services.

DPs

LAC also inappropriately used two DPs to contract for services. Two DPs with a combined total of \$4,600 (\$650 plus \$3,950) were processed on the same day for the exact same vendor, services, and contract period.

DPs can only be used for services costing less than \$1,000. LAC should have combined the two DPs and processed them as one S&E.

Criteria:

CDCR, OBS' DP and S&E Training Module, S&E Procedures for Institutions, states: "The Service and Expense (S&E) Order (CDC 1063) is a simplified form and process used to obtain services/rentals in a more expeditious manner than the normal contract process. The Department has delegated authority to solicit informal bids up to but not to exceed \$4,999.99 (excluding tax) for a twelve-month period...The S&E process also includes a Direct Pay (DP) paperless process for services up to but not to exceed \$999.99 (including tax)."

Public Contract Code, Section 10329, states: "No person shall willfully split a single transaction into a series of transactions for the purpose of evading the bidding requirements of this article."

Recommendation:

Comply with CDCR's existing policies for S&Es and DPs.

FINDING 2: Insurance Requirement not Followed for Hazardous Services

Of the 16 S&Es reviewed by OAC, 3 were for phlebotomy services. This involves the handling and processing of human blood, which is considered a hazardous activity because of the risk for contamination.

LAC did not obtain insurance certificates approved by the ORIM. In addition, LAC should not have used S&Es for hazardous services because they require the DGS' approval.

Criteria:

According to the DGS Delegated Contract Review Guide, "Medical contracts need to have insurance certificates approved by the ORIM for proper mal-practice coverage."

CDCR, OBS' DP and S&E Training Module, Examples of Excluded Services, listed services that are excluded from the S&E process. One of the excluded services is hazardous activities. The section also states in part: "Hazardous activities require additional insurance which would increase processing time and defeat the purpose of using the S&E process.... Should an emergency arise involving hazardous activity, call OCS (which is now OBS) for approval."

Recommendation:

Ensure that hazardous services are processed as regular contracts and obtain insurance certificates approved by ORIM, as required by DGS.

FINDING 3: Incomplete or Inaccurate Documents

OAC reviewed 16 S&Es and 5 DPs, and found the following:

1. There was no documentation on file verifying that three informal bids were obtained for five S&Es.
2. One S&E could not be located.
3. Nine S&Es and two DPs did not have on file the required Drug Free Workplace Certification and/or Payee Data Record.
4. Nine S&Es did not include the contractors' rates for services.
5. Nine S&Es did not have evidence that LAC verified the contractors' status with the Secretary of State.
6. One S&E with a public entity did not have on file the required board resolution.
7. Five S&Es and one DP had incomplete and/or inaccurate information. For example, there was no explanation why the amount for S&E number 076-LAC-7-C1 was amended from \$600 to \$850. Another example was a DP that listed the payable amount as "three thousand nine hundred and fifty dollars" while the numeric amount on the same document indicates the amount as "\$3,900.00".
8. One DP did not show a clear scope of work.
9. Two DPs were missing the Procurement Officer's signature.

Criteria:

1. CDCR, OBS' DP and S&E Training Module, Competitive Bid Requirements-S&E, states: "The S&E policy dictates that the RP (Requesting Program) attempt to secure three bids for competitively bid services. All viable bidders should be contacted and asked to submit bids (sealed or unsealed) by either telephone, mail, fax, or hand delivery. When soliciting bids, the RP must provide the same information to all bidders to ensure a fair and unbiased bid solicitation process. If a minimum of three bidders are contacted and three bids cannot be secured, the RP will address their efforts to fulfill this requirement by completing Section E of the S&E Order Request."

SCM, Section 5.90, Informal Bidding, states: "When services are required and the maximum contract amount is below \$5,000.00, agencies should conduct a market survey of vendors and have them submit unsealed price quotes. There is no limit on the number of vendors that may be solicited. This process may be done by telephone, writing, or fax."

2. SCM, Section 9.09, Record Keeping, states: "Each agency is responsible for maintaining all invoices, records, and relevant documentation for three years after the final payment under the contract. (GC § 8546.7)."

3. CDCR, OBS' DP and S&E Training Module, S&E Program Responsibility, states: "Obtain from the apparent low bidder, the Payee Data Record (STD 204), Drug-Free Workplace Certification, and if applicable, Primary Laws, Rules and Regulations Regarding Conduct an Association with State Prison Inmates (formerly known as Digest of Laws)."
4. SCM, Section 7.30, Contract Budgets, states: "A. If payment is on a cost reimbursement basis, the following items should be included and all unit rates must be extended and totaled (PCC § 10371[C]): 1. Personal service costs showing individual or position rates per unit of time."
5. SCM, Section 5.30.D, listed the following corporate qualifications to do business in California:
 1. When contracts are to be performed in the State by corporations, the contracting agencies should obtain verification that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the State are fulfilled.
 2. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies may determine whether a corporation is in good standing by accessing the Office of the Secretary of State's web site at www.ss.ca.gov....
6. CDCR, OBS Contracting Guidelines, Section 14.23, Public Entity Agreement, states: "A Public Entity (PE) Agreement is an agreement with a county, city, district, local public body, State Board, State Commission, federal agency, or joint powers authority. A PE agreement with a county, city, district, or other local body requires a board resolution and cannot be executed until the board resolution takes place."
7. Good internal controls require that records contain all relevant content and contextual information to ensure all transactions have been fully and appropriately documented, and that the record has value as a source of information to others. Additionally, information is sometimes used as the basis for making a decision; therefore, it is essential to maintain reliable, complete, and accurate records.
8. SCM, Section 5.05.A-Note, Preliminary Considerations and Decisions, states, "The Scope of Work is the key to a satisfactory contract. The level of satisfaction depends on fully assessing and defining the contract need. The determination of a level of quality sufficient to meet the need and guarantee the desired outcome and identification of the capability and qualifications required of a contractor to accomplish the outcome will produce a successful contract."
9. SCM, Section 2.05, Elements of a Valid Contract, states in part: "Each contract must contain the following information... Signature by a person for each party who is authorized to bind that party."

Recommendation:

Implement policies and procedures to ensure all S&Es and DPs have complete and accurate information.

FINDING 4: S&E and DP Log is Inaccurate

The S&E and DP Log contained inaccurate information for five S&Es and one DP.

For example, the approval date on one S&E (CDC 1063) was March 15, 2008. The approval date in the Log was February 26, 2008. Additionally, the CDC 1063 showed a service amount of \$358.25; the amount logged in was \$4,999.

Criteria:

Good internal controls require that records contain all relevant content and contextual information to ensure all transactions have been fully and appropriately documented, and that the record has value as a source of information to others. Additionally, information is sometimes used as the basis for making a decision; therefore, it is essential to maintain reliable, complete, and accurate records.

Recommendation:

Periodically, review the S&E and DP Log for complete and accurate information.

FINDING 5: Incorrect Processing of S&Es and DPs

LAC did not always correctly process S&Es and DPs. Of the 16 S&Es and 5 DPs reviewed by OAC:

1. Four S&Es should have been processed as DPs because their amounts were less than \$1,000.
2. One DP should have been processed as an S&E because the contract amount was \$3,950. DPs can only be used for services less than \$1,000.
3. Two S&Es were for services that should have been processed using the applicable statewide Master Agreement.

Criteria:*For items 1 and 2*

CDCR, OBS' DP and S&E Training Module, S&E Procedures for Institutions, states in part: "The Service and Expense (S&E) Order (CDC 1063) is a simplified form and process used to obtain services/rentals in a more expeditious manner than the normal contract process. The Department has delegated authority to solicit informal bids up to but not to exceed \$4,999.99 (excluding tax) for a twelve-month period The S&E process also includes a Direct Pay (DP) paperless process for services up to but not to exceed \$999.99 (including tax)."

For item 3

SAM, Section 4800, (rev 9/2002), states: "Agencies shall use master contracts whenever the functional requirements for which the contract was awarded are substantially the same as the agency's requirements."

Recommendation:

Implement policies and procedures to ensure that S&Es and DPs are correctly processed.

FINDING 6: Contracts not Properly Monitored

LAC allowed vendors to use rates and provide services that were not in compliance with the contracts' terms and provisions.

OAC reviewed invoices and payment records for 11 S&Es and 5 DPs, and identified the following findings:

1. One S&E invoice used a rate that did not agree with the contract. The labor rate in the contract was \$160/hour, while the rate on the invoice was \$167.99/hour.
2. One S&E and two DPs had invoices for services that were provided after the contract terms. For example, one S&E term was July 1, 2007 through September 30, 2007, but the invoice showed a service date of March 28, 2008.

Criteria:

CDCR, OBS' Contracting Guidelines, Section 10.02.19, Agreement Management and Monitoring, states in part: "The ultimate responsibility for overall agreement monitoring for any service, commodity or public works agreement rests with the requesting division/program/institution unit that requested and/or uses the agreement."

SCM, Section 9.04.A.9, Responsibilities of the Contract Manager, states in part: "Review and approve invoices for payment to substantiate expenditures for work performed and to prevent penalties being assessed under GC § 926.17."

Recommendation:

Review invoices to ensure that rates and services are in compliance with the contracts' terms.

FINDING 7: Approvals and Payments were Late

LAC did not process contracts and payments in a timely manner.

OAC identified the following findings during the review of invoices and payment records for 11 S&Es and 5 DPs.

1. Three DPs were used to expedite payments of delinquent bills, which would have been unnecessary with adequate planning. One of the DPs was for an annual registration fee. The expense is expected every year, so this should have been planned ahead to ensure timely payment.
2. Invoices for three DPs were not paid timely. One invoice was paid 103 days after LAC received the invoice.
3. Services for three DPs started before the contracts were approved.

Criteria:

CDCR, OBS' DP and S&E Training Module, w/p ref: B.7/CSPLAC.3b, states in part: "...after the fact services" requires justification signed by an authorized person.... If justification is not approved, the contractor will have to file a claim with the State Board of Control. This requirement is considered unfair if the denial was caused by CDCR personnel not following the department's policies and procedures. This is why it is important to plan the services ahead of time."

Recommendation:

Implement policies and procedures to ensure contract approvals and payments are made in a timely manner.

SOUTHERN YOUTH CORRECTIONAL RECEPTION CENTER AND CLINIC

FINDINGS AND RECOMMENDATIONS

SOUTHERN YOUTH CORRECTIONAL RECEPTION CENTER AND CLINIC

OAC identified the following findings during the review of contracts processed by SYCRCC:

FINDING 1: Contracts Requiring DGS' Approval

In accordance with the DGS' Audit Guide, OAC reviewed three contracts requiring DGS' approval, and identified the following exceptions:

1. None of the three contracts had documentation on file verifying that the contracts were entered into the SCPRS.
2. One contract was approved late. The contract's start date was July 1, 2007, but not approved until February 6, 2008. The approval was 220 days late.
3. One contract did not have a DGS approval stamp in the designated area of the Standard Agreement (STD. 213). Management indicated that the STD 213 with the DGS stamp may have been misfiled.

Criteria:

1. Management Memorandum (MM) 03-09 and Purchasing Authority Manual (PAM), Chapter 8, states that effective July 1, 2003, all State agencies are required to enter summary information for all purchases or contracts over \$5,000 into SCPRS. The system is designated to generate a unique "registration number" for each transaction. This number must be included on contracts and purchase orders before the final purchasing/contract documents are sent to contractors/vendors. SCPRS tracks contracting dollars procured by the State of California.
2. SCM, Section 2.03.A, Preliminary Considerations, states: "When the services are needed is a critical factor. Sufficient time must be allowed for internal agency process as well as required external review(s)."

SCM, Section 4.09.B, Necessity of Time Management, states: "Contracting staff are generally aware of the necessity for timely action and effective management of time during the contracting process. It is necessary to minimize the number of situations when the contractors start work before formal approval of the contract. For contracts submitted to DGS/Office of Legal Services (OLS), if the contract term starts less than two weeks after submission, it would assist the review process if an explanation were furnished regarding the reason(s) for the late submission of the contract."

CDCR, OBS, Contracting Guidelines, Section 6.07, Late Justification Request/Policy, states: "The OBS late submittal policy stipulates that any agreement or amendment, not submitted within the established timeframe, requires the submittal of a Late Justification Request, CDCR 3009."

3. PAM, Chapter 8, Section 8.6.5, "California Department of General Services Use Only" block. Located in the lower right corner of the Standard Agreement for information technology (IT) Goods and Services Only (STD. 213) is an information block identified "For DGS/Procurement Division (PD) Use Only." A stamp of approval from DGS/PD is recorded when a STD. 213 exceeds a department's purchasing authority for competitive solicitations or Non-Competitively Bid (NCB) contracts. Departments may record information in this information block only if the contract does not require review and approval by DGS/PD.

Recommendations:

1. Ensure that all contracts over \$5,000 are entered into SCPRS, and the registration numbers are documented.
2. Ensure that contracts are processed timely.
3. Obtain the DGS' approval for contracts that are in excess of the delegated authority.

FINDING 2: Delegated Contracts

As required in the DGS' Audit Guide, OAC reviewed delegated contracts to evaluate compliance with criteria. Delegated contracts are contracts that CDCR has the authority to approve.

OAC tested five contracts, and identified the following findings:

1. One contract referenced the wrong version of the GTC.
2. One contract did not have the date of the contractor's signature.
3. One contract involved hazardous services; however, the DGS approval was not obtained.
4. Four contracts were approved late, and did not have written justification.
5. Five contracts were not entered into the SCPRS.
6. One contract did not indicate that competitive bidding was conducted.
7. One medical contract was exempted from bidding and registration to the CSCR; however, the contract was not sent to the Division of Correctional Health Care

Services (DCHCS) or to the DGS for review and approval, as required on medical contracts.

8. One contract was not advertised in the CSCR.
9. One contract did not have sufficient documentation showing fairness and reasonableness of the contract cost.
10. One contract's Standard Agreement, STD 213, was missing an approval stamp and signature.
11. One contract was missing an Emergency Justification Letter.
12. Several contracts were missing contracting documents, such as:
 - a. One contract was missing a notification to the contractor not to start work until the contract is formally approved.
 - b. Three contracts were missing a STD. 213 form.
 - c. Three medical contracts were missing a DGS/ORIM approved malpractice insurance.
 - d. One contract did not indicate the prevailing wages, or where the prevailing wages can be verified.
 - e. Two contracts did not have a budget rate sheet, or the budget amount was not broken down to equal the contract amount.
 - f. One contract was missing the Non-Discrimination Statement, Anti-trust Provisions, and National Labor Relations Board Certification.
 - g. Four contracts with corporations did not have evidence on file proving that the contractor's eligibility to conduct business in California was verified with the Secretary of State.

Criteria:

1. The contract referenced to GTC*SF 201, which according to DGS was used in short form agreements prior to June 25, 2003. GTC 307 is the GTC applicable to the contract because it took effect on March 28, 2007 prior to the contract's approval on April 26, 2007.
2. Standard Agreement, STD 213, Completion Instructions, states: "Original signatures and dates should be provided by the contractor and the authorized agency representative."
3. According to the Delegated Contract Audit Guide, medical contracts need to have malpractice insurance certificates approved by the ORIM within the DGS.

4. CDCR, OBS Contracting Guidelines, Section 6, establishes timeframes for the different types of contracts. Part of 6.01, states: “Any request not submitted within the established time frames will require a CDCR 3009 [Late Justification Request] signed by either the Deputy Director/Associate Deputy Director of the requesting program or the Warden/Health Care Manager/Chief Medical Officer of the requesting institution.”

SCM, Section 2.03.A, Preliminary Considerations-Time, states: “When the services are needed is a critical factor. Sufficient time must be allowed for internal agency process as well as required external review(s).”

5. DGS MM 03-09 and PAM, Chapter 8, state that effective July 1, 2003, all state agencies are required to enter summary information via the SCPRS regarding all purchases or contracts over \$5,000. SCPRS is designed to generate a unique “registration number” for each transaction. **This number must be included on contracts and purchase orders before the final purchasing/contract documents are sent to contractors/vendors.** It is critical that all contracts or purchase orders are entered into SCPRS as required. This is an essential part of contracting and purchasing duties. The SCPRS can be accessed at <https://www.scprs.dgs.ca.gov/>.
6. SCM, Section 5.08, Advertising Competitive Bidding Options, states that a minimum of three competitive bids or proposals are required unless a bidding exemption is obtained.

CDCR’s OBS Contracting Guidelines, NCB, Section 8.01, states, ‘An NCB transaction (formerly “Sole Source”) is a request for an agreement for goods and/or services when only one business is given the opportunity to provide the specified goods or services which would normally be bid. Agreements which are exempt from the competitive bidding process do not require a NCB exemption justification (Refer to Management Memo, (MM) 03-10, Attachments C and D).’

SAM, MM 03-10, was issued to provide requirements for the acquisition of IT and non-IT goods and services obtained through the use of California Multiple Award Schedules (CMAS), Master Agreements, and NCB acquisition methods. Attachment A provides requirements for acquisitions from CMAS and Master Agreements, distinguishing between IT and non-IT acquisitions, and is further categorized by dollar threshold. Attachment B provides requirements for NCB contracts, while Attachments C and D identify and provide additional procedures for exempting contracts from the requirements mentioned in the Memorandum.

7. CDCR, OBS Contracting Guidelines, Section 7.01, The Bid Contract/Request, states: “All Non-Competitively Bid medical contract requests are sent through Division of Correctional Health Care Services (DCHCS) for review and approval. Upon DCHCS approval, the request is forwarded to OBS for processing....”

SAM, MM 05-04, Policy Statement, states: “For medical contracts, the Director of the DGS (or his/her designee) shall determine whether to grant bidding exemptions based on written application submitted by contracting departments. Such written

applications shall include the facts supporting the bidding exemption and the method(s) used by the contract department to determine contract pricing and to evaluate cost reasonableness in the absence of competitive bidding.”

8. SCM, Section 5.75.A, Advertising State-Contracting Opportunities, states: “Contracts of \$5,000 or more must be advertised in the CSCR, before the contracting process begins. Contracts awarded as an NCB, and amendments that require an NCB approval will be published in the CSCR by DGS/Procurement Division as part of the NCB approval process. No agency action is required to advertise the NCB approval.”

CDCR’s OBS Contracting Guidelines, Section 10.02.1, Advertising in the California State Contracts Register, states, “Agreements of \$5,000 or more and all competitive bids must be advertised in the CSCR, before the contracting process begins, **unless** an exemption from advertising is approved by DGS, Procurement Division.”

9. SCM, Section 5.70.D, NCB Contract Justification, states: “A contract cost justification which addresses the appropriateness or reasonableness of the contract cost, is also required if the contract is exempt from the NCB process, or if fewer than three competitive bids or proposals have been received. When the contract is submitted to DGS/OLS for approval, the supporting documents should address the following factors:

1. The effort made by the awarding agency to solicit competitive bids, if appropriate;
2. Cost information (budget), which is in sufficient detail to support and justify the cost of the contract;
3. Cost information for similar services (any differences between the proposed services and similar services should be noted and explained);
4. Special factors affecting the costs under the contract; and
5. An explanation of why the awarding agency believes the cost is appropriate.”

10. CDCR, OBS Contracting Guidelines, Section 5.02, Exemption Letter, states: “Exempt agreements shall be noted or stamped as *“Exempt from DGS’ Approval per DGS Exemption Letter.”*

SCM, Section 2.04, Overview of the Contracting Process. This Section has a table that gives a general overview of the State's contracting process. Number six on the list states that the contract must be processed for signature, approval and distribution. Among other required signatures, it must contain the signature of the person authorized to sign for the agency.

11. PAM, Topic 8, Section 2.B.8.2, Required Documentation, states: “Regardless of the classification of the emergency, departments must document the procurement file and/or provide the DGS/PD, as applicable, the following:

- A description of the emergency.
- Explanation of why the situation warranted the emergency purchase.
- Explanation of the consequences of making the purchase through normal procurement processes.
- A description of the goods and price.
- The names and quotations of suppliers contacted.”

12. aSCM, Section 4.09.A, Basic Policy, states: “The basic state policy is that no contractor should start work until receiving a copy of the formally approved contract. The approval by DGS/OLS is the final, formal approval of the contract. The law provides that when DGS/OLS approval is required, contracts for services should not begin before receipt of approval; payment for services may not be made until the contract is approved by the DGS/OLS or, in the case of an exempt contract, until it is formally approved by the agency.”

12. bCDCR, OBS Contracting Guidelines, Section 10.02.14, Preparing Contract Transmittal, STD 215, states in part: “The Contract Transmittal, STD. 215 form is required for all agreements. The STD. 215 is used to summarize specific agreement information to support the agreement approval by DGS/OLS....”

SCM, Section 9.09.A, Record Keeping, states: “Each agency is responsible for maintaining all invoices, records, and relevant documentation for three years after the final payment under the contract.”

SCM, Section 4.08.A, listed the supporting documents required for obtaining approval from DGS/OLS. Number one on the list is the STD 215 form. According to this Section, the STD 215 must contain an explanation sufficient to afford for approval as to:

- a. The purpose and necessity or desirability of the contract or interagency agreement;
- b. The reasonableness of the price or cost of the services (not applicable to interagency agreements except those with University of California or California State University); and
- c. Any other relevant information necessary to understand the proposed transaction.

The STD 215 shall also contain the name and telephone number of the contact person in case questions arise or additional information is needed by DGS/OLS reviewing attorney. The contact person is the staff member who regularly deals with DGS/OLS on contract matters. A copy of the STD. 215 will be retained on file at DGS/OLS.

12. cSCM, Section 5.30.E, states, “DGS/Office of Risk and Insurance Management requires that proof of insurance, meeting the requirements specified in SCM 3, be submitted with each contract for services that will involve a hazardous activity.

DGS recommends placing a statement requiring proof of adequate insurance in applicable bid documents used to procure services that will involve a hazardous

activity. Likewise, any agency that requires a certificate of insurance for any other reason (e.g., medical malpractice) should consider requiring proof of applicable insurance requirements in bid documents. Examples of service contracts involving hazardous activities can be found in SCM 3.12.”

12. dLabor Code, Section 1773, states: “The body awarding any contract for public work, or otherwise undertaking any public work, shall obtain the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which the public work is to be performed for each craft, classification, or type of worker needed to execute the contract from the Director of Industrial Relations. The holidays upon which those rates shall be paid need not be specified by the awarding body, but shall be all holidays recognized in the applicable collective bargaining agreement. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code.”

SCM, Section 10.15.B, listed prevailing wages as one of the requirements of public works contracts. The section also listed the following procedures in obtaining information of the prevailing wages:

- “1. Obtain from the Department of Industrial Relations the prevailing wage rates before requesting bids. (www.dir.ca.gov (Labor Code §§ 1770 and 1773).
2. The prevailing wage rates for each of the crafts or trade classifications involved in the proposed work to be contracted for must be set forth in the Invitation for Bids or in the contract itself....”

Note: In lieu of specifying the rate of wages in the Invitation for Bids and in the contract, the agency may include a statement that copies of the prevailing rate of per diem wages are on file at its principal office and shall be made available to any interested party on request.

12. eSCM, Section 7.30.A, Availability of Funds, states: “This contract is valid and enforceable only if sufficient funds are made available by the Budget Act of the appropriate fiscal year for the purposes of this program. In addition, this contract is subject to any additional restriction, limitations or conditions enacted by the Legislature, which may affect the provisions, terms, or funding of this contract in any manner.”

SCM, Section 2.03.D, Preliminary Considerations-Funding, states, “Funding for the services is a crucial component and must be identified.”

SCM, Section 2.04, Overview of the Contracting Process. Step 3 of the Contracting Process, states: “Costs and the availability of funds are always a factor. Alternatives range from using already-budgeted funds for simple services to seeking an appropriation.”

CDCR’s OBS Contracting Guidelines, Section 7.01, The Bid Contract/Request, states in part: “In order to initiate a new bid/agreement for services, programs within Headquarters, Juvenile and Adult Services, Division of Adult Parole Operations (DAPO), and non-medical institutions (ISCS) must submit a Contract Request Form

(CDCR 886B) to the Office of Business Services (OBS). The following support documents must be included with the CDCR 886B:...Budget, Rate Sheet or Rates with approval....”

12. f SCM, Section 7.65.B, Non-Discrimination Program, states: “A contractor shall include the nondiscrimination clause in its contracts and with all subcontracts to perform work under the contract, either directly or by incorporation by reference...”

SCM, Section 2.07, has a table listing the provisions that are generally required in the contract processing. On the table included the Antitrust Claims and National Labor Relations Board certification. It also states that Agency should document non-use of the clauses.

12. g SCM, Section 5.30.D, listed the following corporate qualifications to do business in California:

- “1. When contracts are to be performed in the state by corporations, the contracting agencies should obtain verification that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
2. "Doing business" is defined in R&TC § 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
3. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies may determine whether a corporation is in good standing by accessing the Office of the Secretary of State's web site at www.ss.ca.gov....”

Recommendation:

Implement policies and procedures to ensure all contracts processed are in compliance with the State’s contracting rules and regulations.

FINDING 3: Contracts Subject to Master Agreements

OAC reviewed a sample of contracts awarded per Master Agreements to determine if the actual services, rates, terms, and conditions were the same as those established in the Master Agreement.

OAC reviewed four contracts, and found that one contract used a term that did not agree with the term of the Master Agreement. The contract’s Authorization to Issue Notice to Proceed (NTP) showed a term date of July 1, 2008 through June 30, 2010, which differed from the Master Agreement’s original term date of July 1, 2006 through June 30, 2008. The Master Agreement was later amended to end on September 30, 2008. Even with the amendment, the beginning and ending dates of the NTP did not match the Master Agreement.

Criteria:

The contract used Master Agreement ICM06098, which had an original term date of July 1, 2006 through June 30, 2008 and was later amended to July 1, 2006 through September 30, 2008.

Recommendation:

Ensure that the terms and conditions of contracts that were awarded through Master Agreements are consistent with the terms and conditions specified in the Master Agreement.

FINDING 4: Small Dollar Value Contracts

CDCR uses two ways to process small dollar value contracts expeditiously, namely: the DP process, which is used to pay for services up to \$999.99, and the S&E, which is used to pay for services up to \$4,999.99. These two processes do not require advertising in the CSCR, thereby avoiding the lengthy competitive bidding process. However, the critical elements of a contract still apply (i.e., contract term, rate of pay, total dollar amount, scope of work, etc.).

Following the steps outlined in the DGS' Contracting Program Audit Guide, OAC reviewed 4 DPs and 11 S&Es. The review was to determine whether a) the DP/S&E process was used to circumvent the contracting process, and b) informal completion bids were obtained for contracts under \$5,000.

The review of the 4 DPs and 11 S&Es identified the following findings:

DPs

1. Two DPs did not have records in file proving that informal bids were solicited before awarding the services.
2. One DP was missing.

S&Es

1. Seven S&Es should not have been processed as S&Es because they were medical-related contracts. Most medical-related contracts are hazardous in nature; therefore, they take longer to process because they require malpractice insurance that has to be approved by the DGS/ORIM. Malpractice insurance covers doctors and other healthcare professionals for any liability claims arising from their treatment of patients. The purpose of the S&E process is to simplify the contracting process to save processing time; however, in this case the purpose of the S&E was defeated because of the insurance requirement.
2. Seven S&Es for medical services were erroneously exempted from bidding and advertising.

SYCRCC claimed the exemption based upon SAM, Section 1233.3.g, with a revision date of February 1999, which states that contracts for medical care services with physicians, local community hospitals, medical groups (related offsite laboratory services are not included), and 911 emergency ambulance calls do not require CSCR advertising. MM 05-04, issued on January 26, 2008 superseded SAM, Section 1233.3.g, and issued a policy that bidding exemption is only allowed for emergency-related medical services such as transporting a patient to a designated emergency room hospital for the immediate preservation of life and limb. The exemption covers only those services provided in response to the emergency room transport. Based upon invoices reviewed for the seven S&Es, the services billed did not appear to be for life threatening situations. Therefore, they should not have been exempted from advertising.

Additionally, the seven S&Es did not have evidence that approval from the DCHCS was obtained. All non-competitively bid medical contract requests must be sent to DCHCS for review and approval. Upon DCHCS approval, the request is forwarded to OBS for processing.

3. Of the 11 S&Es reviewed, 8 were missing documents that are required to be in the file.

Two S&Es did not have the Scope of Work, Exhibit A, on file and six S&Es did not have a completed S&E Request, CDCR 1852, on file.

Criteria:

DPs

1. SCM, Section 5.90, states: "When services are required and the maximum contract amount is below \$5,000.00, agencies should conduct a market survey of vendors and have them submit unsealed price quotes. There is no limit on the number of vendors that may be solicited. This process may be done by telephone, writing, or fax."

CDCR OBS Contracting Guidelines, Section 8.01, List of Requirements for NCB Agreements for Non-IT Categorized by Dollar Threshold, states: "DGS approval is not required. However, fair and reasonable pricing must be established and documented. If fair and reasonable pricing cannot be established and documented, an NCB form is required and the signed form must be maintained in the transaction files for documentation purposes."

2. SCM, Section 9.09, Record Keeping, states: "Each agency is responsible for maintaining all invoices, records, and relevant documentation for three years after the final payment under the contract. (GC § 8546.7.)"

S&Es

1. CDCR's OBS' DP and S&E Training Module, Restrictions and Limitations, states, "S&E should not be used if the Scope of Work is complex and/or where significant insurance risk exists."

According to the DGS Audit Guide, "Medical Contracts need to have insurance certificates approved by ORIM for proper malpractice coverage."

SCM, Section 5.30.F, states: "DGS/ORIM requires that proof of insurance, meeting the requirements specified in SCM 3 be submitted with each contract for services that will involve a hazardous activity."

2. SCM, Section 5.70.C, NCB Contract Justification, states: "A non-competitively bid contract justification is required unless specifically exempted by statute or policy. (See e.g. SCM 5.80.)"

SCM, Section 5.80.3.o and MM 05-04, states that contracts that are exempt from advertising in the CSCR and/or competitive bidding are contracts for emergency room hospitals, and medical groups, physicians, and ancillary staff providing services at emergency room hospitals, when a patient is transported to a designated emergency room hospital for the immediate preservation of life and limb and there is no competition because the emergency room hospital is designated by a local emergency medical services agency and medical staffing is designated by the hospital. **This exemption covers only those services provided in response to the emergency room transport.**

OBS Contracting Guidelines, 7.01.2, Contract Request Form Processing, states, "If the request is for a Non-Competitively Bid medical agreement, the institution submits the CDCR 886B to Division of Correctional Health Care Services (DCHCS) for review and approval."

3. SCM, Section 9.09, Record Keeping, states: "Each agency is responsible for maintaining all invoices, records, and relevant documentation for three years after the final payment under the contract. (GC § 8546.7.)"

Recommendations:

1. Procurement personnel authorized to approve contracts should make sure that the contract file has documentation showing bid solicitation before approving the contract.
2. Ensure that S&E and DP files are complete.
3. Process contracts for medical services in accordance with State and CDCR policies.

FINDING 5: Commencement of Services

Of the 19 invoices reviewed, 5 revealed that services were conducted before the contract was formally approved.

The table below describes the five contracts, their corresponding invoices, and the number of days the service(s) had already been provided before the contract was finally approved.

A	B	C	D	E	F	G	H
	TERM			INVOICE			(D - G)
Contract	Start	End	Approval Date	Amount	Date	Date of Service	No. of days before start of term
1	7/1/07	6/30/08	8/21/07	2,125	7/3/07	7/3/07	49
2	7/1/07	6/30/08	12/3/07	5,365	9/18/07	9/13/07	81
3	7/1/07	6/30/08	9/14/07	880	Not on invoice	7/9/07	67
4	12/6/06	12/7/06	4/26/07	5,150	12/7/06	12/7/06	140
5	7/1/07	6/30/08	9/5/07	255	9/5/07	7/19/07	48

Criteria:

SCM, Section 4.09.A, Approval and Commencement of Work-Basic Policy, states: “The basic state policy is that no contractor should start work until receiving a copy of the formally approved contract. The approval by DGS/OLS is the final, formal approval of the contract. The law provides that when DGS/OLS approval is required, contracts for services should not begin before receipt of approval; payment for services may not be made until the contract is approved by the DGS/OLS or, in the case of an exempt.”

Recommendation:

Ensure that contracts are approved before the contractor begins providing services.

VENTURA YOUTH CORRECTIONAL FACILITY

FINDINGS AND RECOMMENDATIONS

VENTURA YOUTH CORRECTIONAL FACILITY

OAC identified the following findings during the review of contracts processed by VYCF:

FINDING 1: Contracts Requiring DGS Approval

OAC reviewed a sample of five contracts and identified the following findings:

1. VYCF approved a contract's second amendment that should have been submitted to DGS for approval. The original contract was for sign language interpreter services with a term of September 1, 2005 through June 30, 2006, totaling \$685,000. It was sent to DGS because it exceeded the dollar limit of CDCR's delegated authority. The contract was amended twice, extending the term to January 31, 2008. Both amendments were approved by VYCF. However, according to the SCM, only the contract's first amendment was exempt from DGS' approval.
2. Three contracts were approved late. The table below shows that the contracts were approved more than a week after the term start dates.

a	b	c	d
Contract	Term Start Date	Approval Date	# of Days Late (c minus b)
1	7/1/07	7/12/07	11
2	7/1/07	7/17/07	16
3*	7/1/07	7/15/07	14

*The term ended on 6/30/07 but was amended for another year to start on 7/1/07.

3. One contract over \$5,000 was not entered into the SCPRS. VYCF management stated that they were unable to access the SCPRS system. Management also indicated that CDCR's new Business Information System should solve this problem.
4. Two contracts used the wrong version of the GTC. One contract with an approval date of July 17, 2007, used GTC 306, which was incorrect because the GTC 306 was only to be used for agreements approved prior to March 28, 2007. VYCF should have used the GTC 307 because it took effect on March 28, 2007.
5. One contract was amended; however, no explanation was provided for the amendment. According to VYCF management, the amendment was to extend the contract for another year, and the amendment was processed at the Heman G. Stark Youth Correctional Facility due to the absence of the VYCF's Business Services Officer. The Heman G. Stark Youth Correctional Facility did not indicate the reason for the amendment on the Standard Agreement Amendment, STD 213-A.

6. One contract was missing the rate sheet, not dated by the contractor, had the wrong term in amendment number 2, and had incomplete information on the STD 215.

Criteria:

1. SCM, Section 4.10.A, Approval of Amendments, states: "Amendments should be approved by the same level of authority that the original contract was approved unless such authority has been specifically delegated. If the original contract was approved by DGS/Office of Legal Services (OLS), any amendment must be approved by DGS/OLS except for the following:
 - a. If an amendment only extends the original time for completion of performance for a period of one year or less, the amendment is exempt from approval by DGS/OLS. This exemption can only be used once."
2. SCM, Section 2.03.A, Preliminary Considerations, states: "When the services are needed is a critical factor. Sufficient time must be allowed for internal agency process as well as required external review(s)."

SCM, Section 4.09.B, Necessity of Time Management, states: "Contracting staffs are generally aware of the necessity for timely action and effective management of time during the contracting process. It is necessary to minimize the number of situations when the contractors start work before formal approval of the contract. For contracts submitted to DGS/OLS, if the contract term starts less than two weeks after submission, it would assist the review process if an explanation were furnished regarding the reason(s) for the late submission of the contract."

CDCR, OBS Contracting Guidelines, Section 6.07, Late Justification Request/Policy, states: "The OBS late submittal policy stipulates that any agreement or amendment, not submitted within the established timeframe, requires the submittal of a Late Justification Request, CDCR 3009."

3. MM 03-09 and PAM, Chapter 8, effective July 1, 2003, mandates all State agencies to enter summary information via SCPRS, an internet-based application, all purchases or contracts over \$5,000 in order to establish a uniform reporting process for the purchase of goods and services. The MM further states in part: ". . . the registration number must be included on contracts and purchase orders before the purchasing/contracts documents are sent to the contractors/vendors. The SCPRS is designed to generate a unique "registration number" for each transaction for uniform tracking by DGS on all state agencies contracting and purchasing."
4. SCM, Section 5.09, Required Language in Competitive Bidding, states: "Note: The general terms and conditions of the contract and any unique provisions should be included in the bid document to let bidders know the requirements."

CDCR, OBS Contracting Guidelines, Section 9.01.12, states: "Exhibit C contains provisions required by the Department of General Services and is incorporated in

the agreement/bid by reference only. Access to Exhibit C is available through the DGS Website: www.ols.dgs.ca.gov. According to www.ols.ca.gov, GTC 307 is used for all contracts except Interagency Agreement. GIA 101 is General Terms and Conditions for Interagency Agreements.”

5. SCM, Section 4.10.A.2, Approval of Amendments, states: “Upon completion of the amendment, a fully executed copy of the amendment and a form STD 215 explaining the reason for the extension must be sent to DGS/OLS if the original contract was subject to DGS/OLS approval.”

SCM, Section 7.80.A, Multiple Year Contracts, states: “Contracts for services should normally not exceed two years, absent a substantial written justification for a longer term, based on business reasons. Approval by DGS/OLS must be obtained prior to releasing any solicitation that contains a contract term beyond two years. A justifiable business reason must support such a request for approval.”

6. SCM, Section 2.05, Elements of a Valid Contract, states in part: “Each contract must contain the following information: Consideration (the contract must clearly express the maximum amount to be paid and the basis on which payment is to be made: e.g., a fixed amount regardless of time spent, billing based on time spent at a specified rate plus actual expenses, or cost recovery).…”

CDCR, OBS Contracting Guidelines, Section 7.01, states: “The following support documents must be included with the CDCR 886B: ... Budget, Rate Sheet or Rates with approval....”

CDCR, OBS Contracting Guidelines, Section 9.01.11, states: “Exhibit B-2 (Rate Sheet) is a detailed outline of the frequency and quantity of service(s) requested, providing a mechanism for the Contractor to provide accurate rates for the services required. Exhibit B-2 is utilized as the basis for award and therefore, must coincide with the Statement of Work (SOW).…”

DGS, Standard Agreement (STD 213), Completion Instructions, states, “Original signatures and dates should be provided by the contractor and the authorized agency representative.”

SCM, Section 3.09.A.8, Amendments, states: “When an amendment or modification is subject to DGS/OLS approval, a STD 215 should be completed, explaining the authority and the reason for the amendment, including any change in the DVBE [Disabled Veteran’s Business Enterprise] goals. The amendment should be transmitted to DGS/OLS in accord with the procedure detailed in SCM 4.10.”

SCM, Section 4.08.A.1, Obtaining Approval from DGS/OLS, states: “Contract Transmittal form (STD 215). This form must contain an explanation sufficient to afford a basis for approval as to: (a) The purpose and necessity or desirability of the contract or interagency agreement; (b) The reasonableness of the price or cost of

the services (not applicable to I/As [interagency agreement] except those with UC [University of California] or CSU [California State University]); and (c) Any other relevant information necessary to understand the proposed transaction.”

Recommendations:

Ensure that contracts not within the CDCR’s delegated authority are sent to DGS for approval.

Amendments for contracts originally approved by DGS must also be sent to DGS for approval. Additionally, ensure that a justification is submitted with the request for an amendment.

To ensure contracts are processed timely, follow the OBS recommended timeframes in processing contracts.

Ensure that contract documents have complete and accurate information.

FINDING 2: Delegated Contracts

OAC reviewed a sample of 5 contracts in the test for Delegated Contracts and identified 13 findings. Delegated Contracts are agreements that CDCR has the authority to approve.

1. Two contracts were misclassified. The contracts were processed as emergency contracts, rather than standard agreements. As a result, the contracts were erroneously exempted from advertising.

The contracts were processed as emergencies to avoid being late. The contracts were for routine diagnostic, therapeutic, and pathology services. The contracts should have been processed as standard agreements subject to competitive bidding and advertising.

2. Four contracts were approved late. The following table shows that the contracts were approved after their term start dates.

a	b	c	d
Contract	Term Start Date	Approval Date	# of Days Late (c minus b)
1	9/1/06	11/9/07	434
2	7/1/07	7/12/07	11
3	7/1/07	7/12/07	11
4	10/1/07	12/3/07	63

3. Three contracts for hazardous activities did not have insurance approved by the DGS, ORIM. For example, one contract was for examination, diagnostic, treatment, and pathology services. The services involved handling of blood of patients with communicable diseases; therefore, should be considered hazardous in nature. Contracts for hazardous activities require insurance approved by DGS, ORIM.

4. Two contracts processed as emergencies did not provide emergency justification. Both contracts were processed as emergencies, but neither had a "Declaration of Emergency" form in the contract file. Departmental policy requires a "Declaration of Emergency" form to be submitted with the contract documents. For emergency contracts processed by any of the institutions, the Declaration of Emergency form has to be signed by the Warden or Healthcare Manager/Chief Officer (medical contracts); if processed by headquarters, the Declaration of Emergency form has to be signed by the Deputy Director of the respective Division.
5. One contract's term was unclear. The contract's original term was for August 1, 2006 through June 30, 2007. Amendment number 1 changed the term to September 1, 2006 through June 30, 2008. There was no explanation for the amendment.
6. Four contracts' files did not have evidence that the contracts were entered into the SCPRS.
7. Three contracts did not have a contract manager's signature and stamp of approval. The three contracts were within the VYCF's delegated authority; therefore, the contracts should have an exemption stamp and the authorizing signature of the contract manager in the designated area of the STD 213.
8. The files for four contracts did not have evidence that VYCF verified the contractors' eligibility to conduct business in California. The four contractors were corporations. According to the SCM, corporations have to be in good standing to do business in California. Agencies may verify the corporations' status via the Office of the Secretary of State's web site at www.ss.ca.gov.
9. One contract used the maximum delegated amount rather than the bid amount. The contract was for \$49,999.99, the maximum amount all Department of Juvenile Justice's facilities can approve using the delegated authority. However, OAC's calculation of the vendor's bid totaled \$45,000. The vendor's bid was to provide cosmetology services to VYCF for 25 hours each month at \$75 per hour for 24 months ($25 \times 75 = 1,875 \times 24 = 45,000$).
10. Four contracts had incomplete information. Four contracts were missing the rate sheets and one of the four contracts did not have the STD 215 form on file.
11. One contract did not contain documentation showing VYCF's effort to contact all possible bidders. The contract was advertised; however, documentation of vendors that responded to the "Invitation for Bid" was not in the file.
12. Three amended contracts were incorrectly processed. For example, one contract's term and amount were amended prior to the award. There was no evidence in file showing that an amendment notice was sent to the bidders. OAC believed that if the notice was sent, there would be more competition among bidders, and VYCF could have possibly obtained a better vendor and rate.

13. Two contracts used the wrong version of the GTC. One contract was approved on July 12, 2007 and the other contract was approved on December 3, 2007. These two contracts made a reference to GTC 306, which was used for contracts approved prior to March 28, 2007. The contracts should have referenced GTC 307.

Criteria:

1. SCM, Section 3.10, Emergency Contracts, states: "Emergency is defined in PCC §1102 as a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services."

SCM, Section 3.10.1-Note, Emergency Contract Processing Procedures, states: "For consultant services contracts, an emergency means an occurrence, as determined by DGS, in which the use of contracted services appeared to be reasonably necessary, but there was insufficient time to obtain prior formal approval of the contract (PCC § 10371)."

SCM, Section 1.05.A, Classification of Contracts, states: "Proper classification of contracts is necessary as a first step in determining which solicitation process is appropriate for the contract, and what elements are required to be in the contract."

SCM, Section 5.75.A, Advertising for State Contracting Opportunities, states, "Contracts of \$5,000 or more must be advertised in the CSCR [California State Contracts Register], before the contracting process begins."

2. CDCR, OBS Contracting Guidelines, Section 6.07, Late Justification Request Policy/Process, states: "The OBS late submittal policy stipulates that any agreement or amendment, not submitted within the established timeframe, requires the submittal of a Late Justification Request, CDCR 3009. Late Justification Requests for agreements and amendments are to be approved on rare occasions. Reasonable justifications include protests; re-bids; or situations resulting from unusual circumstances beyond CDCR's control."

SCM, Section 4.09.B, Necessity of Time Management, states: "Contracting staff are generally aware of the necessity for timely action and effective management of time during the contracting process. It is necessary to minimize the number of situations when the contractors start work before formal approval of the contract. For contracts submitted to DGS/OLS, if the contract term starts less than two weeks after submission, it would assist the review process if an explanation were furnished regarding the reason(s) for the late submission of the contract."

3. SCM, Section 3.12.B.1, Hazardous Activities Contracts, states:

- “1. Contracts for hazardous activities must be submitted to DGS/ORIM for review to ensure that the contract and the certificate of insurance comply with the provisions of SCM Section 7.40 and that the insurance coverage meets applicable standards.”
4. CDCR, OBS Contracting Guidelines, Section 14.08, Emergency Contracts, states: “An Emergency is defined in PCC, Section 1102 as a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

Institutions: The Warden (for non-medical agreements) or Health Care Manager/Chief Medical Officer (for medical agreements) must sign a Declaration of Emergency and submit the Declaration with the contract request.

Headquarters: The Deputy Director over the respective division must declare the emergency and sign a Declaration of Emergency describing the nature of the emergency service and include sufficient detail to substantiate the emergency situation.”

SCM, Section 4.05, Approval of Emergency Contracts, states: “The law recognizes exceptions from competitive bidding in emergencies (PCC §§ 1102 and 10340(b)(1)), but no exception is provided from contract approval. The basic policy is to respond to the emergency as circumstances demand and then to obtain the formal approval(s) as soon as practicable. However, before the start of the work, the contract must be verbally authorized by someone with authority at the agency to initiate a contract in such situations. If there is any question about whether the circumstances qualify as an emergency, DGS/OLS should be contacted as soon as possible. The contract will be processed on an expedite basis as discussed in SCM 4.08 C.”

5. SCM, Section 2.05, Elements of a Valid Contract, states: “Each contract must contain the following information:
- Identification of the parties
 - Term for the performance or completion of the contract (dates or length of time)
 - Consideration
 - Scope
 - Other general or unique terms and conditions of the agreement
 - Signature by a person for each party who is authorized to bind that party.”
6. MM 03-09 and PAM, Chapter 8, effective July 1, 2003, mandates, “. . . all state agencies to enter summary information via SCPRS, an internet-based application, all purchases or contracts over \$5,000 in order to establish a uniform reporting process for the purchase of goods and services.” The memorandum further states in part: “. . . the registration number must be included on contracts and purchase orders before the purchasing/contracts documents are sent to the contractors/vendors. The SCPRS is designed to generate a unique “registration

number” for each transaction for uniform tracking by DGS on all state agencies contracting and purchasing.”

7. SCM, Section 2.04, Table 2.1(6), The Contracting Process, states: “The contract must be signed by the person authorized to sign for the agency; and Additional approvals must be obtained depending on the contract; and the contract must be distributed.”

SCM, Section 2.05, Elements of a Valid Contract, states in part: “Each contract must contain the following information.... Signature by a person for each party, who is authorized to bind that party.”

CDCR, OBS Contracting Guidelines, Section 5.02, Exemption Letter, states: “Exempt agreements shall be noted or stamped as *Exempt from DGS’ Approval per DGS Exemption Letter.*”

8. SCM, Section 5.30.D.3, Forms and Certifications for Competitive Bidding Documents, states: “Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies may determine whether a corporation is in good standing by accessing the Office of the Secretary of State’s web site at www.ss.ca.gov.”
9. SCM, Section 2.05, Elements of a Valid Contract, states in part: “Each contract must contain the following information: ...Consideration (the contract must clearly express the maximum amount to be paid and the basis on which payment is to be made: e.g., a fixed amount regardless of time spent, billing based on time spent at a specified rate plus actual expenses, or cost recovery).”
10. SCM, Section 9.09.A, Record Keeping, states: “Each agency is responsible for maintaining all invoices, records, and relevant documentation for three years after the final payment under the contract.”

SCM, Section 2.05, Elements of a Valid Contract, states in part: “Each contract must contain the following information: Consideration (the contract must clearly express the maximum amount to be paid and the basis on which payment is to be made: e.g., a fixed amount regardless of time spent, billing based on time spent at a specified rate plus actual expenses, or cost recovery)”

11. SCM, Section 5.08, Competitive Bidding Options. This section lists the exceptions if the required minimum three competitive bids are not met.

CDCR’s OBS Contracting Guidelines, Section 8.03, Non-Competitively Bid (NCB) for Leveraged Procurement Agreements for Contracts \$5,000 to \$250,000, states, “Solicit a minimum of 3 offers including one small business and/or DVBE (if available) and document responses. If only one offer is received, the file documentation must include the reasons why the other two suppliers did not respond with an offer. Likewise, if only 2 offers are received, the file documentation must include the reasons why the third supplier did not respond. If more than three suppliers are solicited, the file need only document the responses or rationale to

equal the minimum 3 offers required. If only one source is known (competing offers cannot be obtained), the non-competitively bid contract process must be followed (see Attachment B-1) or departments must conduct a competitive solicitation, if suppliers are known outside of California Multiple Award Schedules (CMAS) contractors or Master Agreement contractors that can meet the department's requirements."

12. CDCR, OBS Contracting Guidelines, Section 14.01, Amendments, states: "An amendment is defined as a formal modification to an executed agreement. Any changes in the scope, term, or funding must be initiated by an amendment to the agreement and requires the same or similar agreement approval process as the original agreement. An amendment should contain the same degree of specificity for changes that the original agreement contained. Amendments must be entered into prior to the expiration of the original agreement. The amendment can increase services within the original scope of work, but, cannot add services "outside" the original scope of work."

SCM, Section 3.09.A.8, Amendments, states: "When an amendment or modification is subject to DGS/OLS approval, a STD 215 should be completed, explaining the authority and the reason for the amendment, including any change in the DVBE goals. The amendment should be transmitted to DGS/OLS in accordance with the procedure detailed in SCM 4.10."

SCM, Section 4.10.A.2, Approval of Amendments, states: "Upon completion of the amendment, a fully executed copy of the amendment and a form STD 215 explaining the reason for the extension must be sent to DGS/OLS if the original contract was subject to DGS/OLS approval."

SCM, Section 3.09.A.2, Amendments, states: "Amendments must be entered into before the expiration of the original contract."

13. CDCR's OBS Contracting Guidelines, Section 9.01.12, GTC (Exhibit C), states: "Exhibit C contains provisions required by the Department of General Services and is incorporated in the agreement/bid by reference only. Access to Exhibit C is available through the DGS Website: www.ols.dgs.ca.gov."

According to the DGS website, GTC 306 was for contracts approved prior to March 28, 2007. GTC 307 replaced GTC 306, and should be used for contracts approved after March 28, 2007.

Recommendation:

Ensure that all contracts processed by VYCF are in compliance with the State's contracting policies and procedures.

FINDING 3: Contracts Subject to Master Agreements

OAC reviewed two contracts subject to Master Agreements and noted the following:

1. VYCF assigned the DGS' Master Service Agreement (MSA) number to one contract, instead of assigning a unique CDCR contract number. This meant that there were two separate agreements (one MSA and one CDCR contract) using the exact same contract number.
2. One contract was missing the rate sheet.

Criteria:

1. CDCR's OBS Contracting Guidelines, page 94, Agreement Number definition, states: "A unique number should be assigned to an IFB [Invitation for Bid], RFP [Request for Proposal], or other agreement, for identification and tracking purposes."
2. SCM, Section 2.05, Elements of a Valid Contract, states: "Each contract must contain the following information: Consideration (the contract must clearly express the maximum amount to be paid and the basis on which payment is to be made: e.g., a fixed amount regardless of time spent, billing based on time spent at a specified rate plus actual expenses, or cost recovery)."

CDCR's OBS Contracting Guidelines, Section 7.01, states in part: "... a Rate Sheet is one of the support documents that must be included with the CDCR 886-B."

CDCR's OBS Contracting Guidelines, Section 9.01.11 states: "Exhibit B-2 (Rate Sheet) is a detailed outline of the frequency and quantity of service(s) requested, providing a mechanism for the Contractor to provide accurate rates for the services required. Exhibit B-2 is utilized as the basis for award and therefore, must coincide with the Statement of Work (SOW)."

Recommendations:

Assign a unique contract number to each contract.

Include rate sheets in all contracts.

FINDING 4: Small Dollar Value Contracts

The review of a sample of 5 DPs and 14 S&Es resulted in the following findings:

1. Five S&Es were split to avoid going over the delegated amount. For example, 3 S&Es having exactly the same type of services and contractor were processed less than 12 months apart. If the 3 contract amounts were added, the total would be \$14,999.97, which is over the \$4,999.99 limit for S&Es.
2. VYCF did not obtain three bids for three S&Es. Each of the three S&E's "Price Quote Worksheet" showed that only two quotes were obtained. No documentation was provided explaining why a third bid was not obtained.
3. One DP exceeded the delegated amount. The delegated amount for DPs is up to \$999.99. The table below shows the DP's excess amount.

A	B	C	D
DP	Maximum Delegated Amount	Contract Amount	Amount in Excess of the Delegated Amount (c minus b)
1	999.99	2,428.93	1,428.94

4. Four S&Es did not have the Scope of Services, and a file for one S&E could not be located.

Criteria:

1. CDCR's OBS Contracting Guidelines, Section 14.26.1, Restrictions and Limitations, states: "The splitting of S&E and DP orders to avoid any monetary limitations is prohibited (e.g., a requesting program has multiple DP/S&E Orders for similar or like services) and the total of those actions cannot exceed \$4,999.99 in a twelve-month period."
2. CDCR's OBS' S&E and DP Training Module states: "Solicit three (3) viable bids."
3. CDCR's OBS Contracting Guidelines, Section 14.26, S&E/DP Orders, states: "The S&E process also includes Direct Pay (DP) paperless process for one-time only services less than \$1,000."

CDCR's OBS S&E and DP Training Module, DP definition, states: "One time only services up to but not to exceed \$999.99. Multiple services up to but not to exceed \$999.99."

4. SCM, Section 9.09, Record Keeping, states: “Each agency is responsible for maintaining all invoices, records, and relevant documentation for three years after the final payment under the contract. (GC § 8546.7.)”

Office of State Publishing’s website <http://www.osp.dgs.ca.gov/recsctr/default.htm>, Records Management, states: “Records play a vital role in managing and operating California state government. They serve as the memory of the organization, a record of past events, and the basis for future actions. Records managed systematically are complete, easily accessible, and properly arranged to serve current and future management needs, enhance program effectiveness and economy of operations. The job of records managers is to identify what records they have from their creation, how they are or should be maintained through their life and how they are maintained or destroyed at the end of that life.”

Recommendations:

S&Es and DPs should be processed in accordance with both the State’s and CDCR’s policies and procedures.

Ensure all S&E and DP files are complete.

FINDING 5: Services Rendered before Contract Approval

OAC reviewed a sample of 27 invoices and identified the following findings:

1. Eight invoices showed that the services started before the contracts were formally approved. See the following Table for details.

a	b	c	d	e
Contract No.	Term	Approval Date	Work Start Date	# of Days Work Started Before Approval (d – e)
1	07/01/07-06/30/09	07/17/07	07/10/07	7
2	08/01/06-06/30/08	12/11/06	11/26/06	11
3	07/01/07-01/31/08	07/12/07	07/10/07	2
4	10/01/07-06/30/09	12/03/07	07/31/07	125
5	07/1/07-06/30/08	07/03/07	07/01/07	2
6	07/02/2007	07/26/07	07/01/07	25
7	08/28/06	09/01/06	08/26/06	6
8	07/27/07	09/21/07	07/27/07	56

2. One S&E form (CDCR 1063) did not indicate the term of the contract, making it difficult to determine if the invoice was for services rendered during the contract period.

Criteria:

1. SCM, Section 4.09.A, Approval and Commencement of Work-Basic Policy, states:
“The basic state policy is that no contractor should start work until receiving a copy of the formally approved contract. The approval by DGS/OLS is the final, formal approval of the contract. The law provides that when DGS/OLS approval is required, contracts for services should not begin before receipt of approval; payment for services may not be made until the contract is approved by the DGS/OLS or, in the case of an exempt contract, until it is approved by the agency.”

Public Contract Code, Sections 10295 and 10335, subdivision (a), states that all contracts for the acquisition of non-information technology goods and services are void unless and until approved by the DGS and that contracts are effective from the date of DGS approval, except where departments have delegated purchasing authority.

2. SCM, Section 2.05, Elements of a Valid Contract, states in part: “Each contract must contain the following information: ...Term for the performance or completion of the contract (dates or length of time)....”

Recommendations:

Ensure that contracts are approved before the contractor begins providing services.

Include the contract period in all agreements.

CDCR	California Department of Corrections and Rehabilitation
CDCR1	Exemption Letter
CDC 1063	Service and Expense Order Form
CDCR 3009	Late Justification Request
CMAS	California Multiple Award Schedules
CRC	California Rehabilitation Center
CSCR	California State Contracts Register
CSU	California State University
DCHCS	Division of Correctional Health Care Services
DFEH	Department of Fair Employment and Housing
DGS	Department of General Services
DJJ	Division of Juvenile Justice
DP	Direct Pay
DVBE	Disabled Veteran's Business Enterprise
GC	Government Code
GTC	General Terms and Conditions
I/A	Interagency Agreement
IFB	Invitation for Bid
IT	Information Technology
LAC	California State Prison-Los Angeles County
MM	Management Memorandum
MSA	Master Service Agreement
NCB	Non Competitively Bid
NTP	Notice to Proceed
OAC	Office of Audits and Compliance
OBS	Office of Business Services
OLS	Office of Legal Services
ORIM	Office of Risk and Insurance Management
PAM	Purchasing Authority Manual
PC	Penal Code
PCC	Public Contract Code
PD	Procurement Division
PE	Public Entity Agreement
RFP	Request for Proposal
S&E	Service and Expense Order
SAM	State Administrative Manual
SCM	State Contracting Manual
SCPRS	State Contract and Procurement Registration System
SOA	Statement of Account
SOW	Statement of Work
STD 213	Standard Agreement
STD 213-A	Standard Agreement Amendment
STD 215	Agreement Summary
SYCRCC	Southern Youth Correctional Reception Center and Clinic
VYCF	Ventura Youth Correctional Facility